

REMARKS**1. The Amendments and the Support Therefor**

The specification has been amended in places to correct minor typographical errors, and regarding the claims, no claims have been canceled, seven new claims (43-49) have been added, and claims 31, 35, 38, and 40 have been amended to leave claims 24-49 in the application. A form PTO-2038 authorizing a charge for any newly-submitted claims in excess of the amount previously paid for should accompany this Response, as per 37 CFR §1.16(b)-(d), with the fee due being calculated as follows:

FEE CALCULATION

For	Already Paid	No. Extra	Rate (SMALL ENTITY)	Fee (SMALL ENTITY)
Total Claims	26 - 20 =	6	x \$9 =	\$54
Independent Claims	6 - 5 =	1	x \$42 =	\$42
Total:				\$96

No new matter has been added by the amendments or new claims, and support for these amendments and new claims is noted below.

2. Election of Species

The Examiner contends that the application contains claims directed to patentably distinct species of the invention, i.e., species a of Figs. 8 and 9 and species b of Figs. 10 and 11. Please note that the following claims read on the following species depicted in the Figures:

- Independent claims 24 and 35 (and dependent claims 25-34): Figs. 10 and 11 (stent)
- Independent claim 36 (and dependent claims 37-38): Figs. 4, 6, 7 (bush/connector)
- Independent claim 39: Figs. 8-11 (stent; see paragraph 0056, page 13 line 18-page 19 line 7)
- Independent claim 40 (and dependent claims 41-42): Figs. 10 and 11 (stent) *and* Figs. 4, 6, 7 (bush/connector)

In other words, independent claims 24, 35, 39, and 40 all encompass stents, whereas independent claim 36 is directed to a bush/connector (and claim 40 also encompasses a bush/connector). Regarding the claims directed to stents, note that independent claim 39 is generically directed to

all of Figs. 8-11 (see paragraph 0056, page 13 line 18-page 19 line 7), whereas claims 24, 35 and 40 are more specifically directed to the species of Figs. 10-11.

The Examiner notes that prior counsel elected species a of Figs. 8 and 9, claims 24-38 and 40-42. This election is inconsistent insofar as claims 24-38 and 40-42 are primarily directed to the species of Figs. 10-11, rather than Figs. 8-9. Claims 24-38 and 40-42 are nonetheless elected by the Applicant for purposes of further examination. However, since claim 39 is generic to the species of all of Figs. 8-11, it is requested that claim 39 be examined as well.

Regarding new claims, all of newly-added claims 44-49 are all readable on the elected species of Figs. 10-11.

3. Objections to Claims 35 and 36

The objections to claims 35 and 38 are obviated by the amendments to these claims.

4. Rejection of Claims 24-34 and 40-42 under 35 USC §112(2)

These rejections are believed to be obviated by the amendments to claims 24, 31, and 40.

5. Rejection of Claims 24 and 27-32 under 35 USC §102(b) or §103(a) in view of U.S. Patent 5,527,338 to Purdy

Kindly reconsider the rejection of claim 24 (and thus its dependent claims 27-32). Contrary to the Examiner's assertion, the *Purdy* device does *not* include an anchor part having wire turns which are *EITHER*:

- (a) Of cycloidal form producible by displacing individual turns of a cylindrical helix laterally in different directions and so that they are substantially coplanar (as depicted, e.g., in Fig. 10 of the Applicant's drawings). In *Purdy's* Fig. 1, the anchoring member 12 does have helical turns oriented somewhat coplanarly (as asserted by the Examiner), but they are in no way laterally displaced: rather, they are laterally symmetric, i.e., coaxial. Further, in Fig. 2, the turns are displaced axially along a circular path, and are certainly not coplanar (consider that some turns are oriented in planes *perpendicular* to the planes of

other turns).

OR

- (b) Of spiro-cycloidal form producible by displacing individual turns of a *tapering helix* laterally in different directions and so that they are substantially coplanar (as depicted, e.g., in Fig. 11 of the Applicant's drawings). Initially, neither *Purdy's* Fig. 1 nor any other embodiments show or suggest a tapering helix. Further, as noted above, *Purdy's* helix turns are not laterally displaced in Fig. 1, nor are they substantially coplanar in Fig. 2.

Further, there is no suggestion apparent in *Purdy*, or in other art of record, which can fairly be said to motivate one of ordinary skill to modify *Purdy* to attain the claimed arrangement. Claim 24 and its dependent claims are therefore submitted to be allowable.

6. Rejection of Claims 25-26 under 35 USC §103(a) in view of U.S. Patent 5,527,338 to *Purdy* and U.S. Pub. 2002/0138095 to *Mazzochi et al.*

These claims are submitted to be allowable for at least the same reasons as their parent claim 24 (as discussed in the foregoing Section 5 of this Response).

7. Rejection of Claims 33-35 under 35 USC §103(a) in view of U.S. Patent 5,527,338 to *Purdy*

Claims 33 and 34 are submitted to be allowable for at least the same reasons as their parent claim 24 (as discussed in the foregoing Section 5 of this Response).

Independent claim 35 is also submitted to be allowable for at least the same reasons as parent claim 24 (as discussed in the foregoing Section 5 of this Response), namely, *Purdy* neither discloses nor suggests the cycloidal form recited (wherein the helix turns are laterally displaced and at least substantially coplanar), nor the spiro-cycloidal form recited (wherein the helix is tapered and has laterally displaced turns which are at least substantially coplanar).

8. Rejection of Claims 36-37 under 35 USC §102(b) in view of U.S. Patent 5,192,301 to Kamiya et al.

Kindly reconsider these rejections. The Examiner contends that the *Kamiya* connector releasably connects a first part 23 to a second part (this second part being to the left of region 21"). However, note that claim 36 recites that the connector releasably interconnects the first and second parts; and the connector comprises first and second connector regions securable to the first and second parts. Here, no portion of the plug 21" releasably connects to first and second parts – the only releasable connection is to member 23. Stated differently, it is not seen where the *Kamiya* plug includes first and second connector regions which releasably connect to first and second parts. It is therefore submitted that independent claim 36, and its dependent claim 37, are allowable over *Kamiya*. If the rejection is maintained, please specifically indicate where each limitation of the claim is present in *Kamiya*.¹

9. Rejection of Claims 40-42 under 35 USC §103(a) in view of U.S. Patent 5,527,338 to Purdy and U.S. Patent 5,192,301 to Kamiya et al.

Claim 40 is submitted to be allowable for at least the same reasons as parent claim 24 (as discussed in the foregoing Section 5 of this Response), namely, neither *Purdy* nor *Kamiya* discloses or suggests the cycloidal form recited (wherein the helix turns are laterally displaced and at least substantially coplanar), or the spiro-cycloidal form recited (wherein the helix is tapered and has laterally displaced turns which are at least substantially coplanar).

Regarding the rejections of claims 41 and 42, kindly reconsider. The rejection is predicated on the grounds that "constructing the bush as claimed would have been obvious since

¹ "The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention. . . . It is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Int. 1990), citing to *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984); see also 37 CFR §1.104(c)(2) ("In rejecting claims for want of novelty or for obviousness . . . the particular part relied on must be designated as nearly as practicable"); MPEP 707.07(d).

such arrangements are old and well known in the art". This is not a proper rejection, since as per MPEP 2144.03, a §103 rejection which is "unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." Here, we submit that the matter of claim 41, and particularly claim 42, are not known; see, e.g., the comments at Section 8 of this Response. If the rejection is maintained, please set forth evidence that the claimed arrangement is truly known. In any event, claims 41 and 42 are submitted to be allowable for at least the same reasons as claim 40.

10. Objection to Claims 38

The indication that claim 38 is objected to, and is thus presumably allowable if rewritten in independent form, is noted and appreciated.

11. New Claims 44-47

11.a. New Claim 43

New claim 43, dependent from claim 24, finds support in claim 36 and is submitted to be allowable for at least the same reasons as its parent claim 24.

11.b. New Claims 44-46

New claims 44-46, which find support at page 11 lines 6-7 (par. 0047) and page 13 line 20 (par. 0056), are submitted to be allowable for the following reasons. First, *Purdy* does not disclose a stent as claimed in claims 44-46, wherein the stent is formed of a single wire; looking to the *Purdy* embodiment of Figs. 1 and 2, an anchoring element 12 deploys to lodge against the walls of a vessel, while a "lead element" 14 is carried by blood (or other fluid) flow down the vessel until the fibers 16 are fully extended, at which point the lead element 14 - which is formed of a thrombosis-producing material - will generate clotting, which propagates along the fibers 16 to the anchoring element (see column 5 lines 33-47). Also note column 6 lines 17-33 regarding the anchoring element 22, fibers 26, and lead element 24 of Fig. 3. As noted at column 5 line 66-column 6 line 17, the fibers 16 are separately formed from, and attached between, the

anchoring and lead elements 12 and 14. Thus, the *Purdy* device is not formed of a single length of wire, as recited in claims 44-46.

Second, there is no suggestion apparent in *Purdy* or the other art of record which can fairly and objectively be said to motivate one of ordinary skill to form the *Purdy* device of a single length of wire, such that the anchoring element 12 extends to define the lead element. Initially, shapes such as those shown in Figs 1 and 2 would plainly need multiple lengths of wire to form the multiple fibers 16 between the anchoring and lead elements 12 and 14. Further, since the fibers 16 must be very flexible to allow the lead element 14 to drift away from the anchoring element 12 – but the anchoring element 12 must at the same time have sufficient stiffness to expand and anchor into the vessel in which it is being installed – it would plainly be extremely difficult to form the device of a single length of wire, such that the stiffness of the wire varies at different points to provide the desired functionality. As noted in MPEP 2143.02, a proposed modification which does not have a reasonable chance of success is not an obvious modification, and since it is unclear how the *Purdy* device could be formed of a single length of wire in such a manner that it could still achieve all of its desired objectives, it cannot be obvious to modify *Purdy* to form the device of a single length of wire, as recited in claims 44-46.

11.c. New Claims 47-49

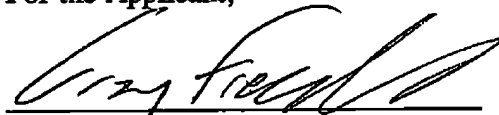
New independent claim 47 is particularly directed to embodiments such as that shown in Fig. 11 (see end of par. 0056, page 14 lines 6-7), and also includes the single wire feature noted in claims 44-46, and is therefore submitted to be allowable for the reasons noted in Sections 5 and 11.b of this Response.

Claims 48 and 49, which respectively find support in claims 36 and 38, are submitted to be allowable for at least the same reasons as claim 47.

12. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

For the Applicant,



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+ \$96 extra claims fees)

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